

FACT SHEET: Allen Amendment to Strike Section 1443

Section 1443 of the Energy Bill amends the Clean Air Act to extend ozone attainment dates in downwind areas. The Energy & Commerce Committee held a hearing on attainment deadlines in July 2003. This provision, which was added to the Energy Bill Conference Report, was never considered by the Energy and Commerce Committee. The provision puts polluters ahead of public health. EPA has not studied the impacts, but Clear the Air estimates it could be responsible for more than one million asthma attacks.

Section 1443 could extend compliance deadlines to at least 2016, a decade or more beyond the current ozone attainment deadlines.

- Section 1443 states that attainment must be reached “no later than the date on which the last reductions in pollution transport necessary for attainment in the downwind area are required to be achieved by the upwind area.” The cap date of the CAIR rule is 2016, and full reductions in downwind areas may be delayed further.

This Provision is broader and less flexible than EPA’s former policy on attainment date extensions.

- Section 1443 would *require* EPA to issue extensions to downwind nonattainment areas that request an extension. The Clinton EPA policy applied to extreme cases where transported pollution made it “practicably impossible to attain” by the deadline, but Section 1443 would apply to all nonattainment areas impacted by transported pollution, whether transport was the major problem or just a small percent.
- Recent EPA determinations would cause Section 1443 to apply across the East Coast. Section 1443 applies to downwind areas impacted by “upwind areas,” defined as an area “that significantly contributes to nonattainment in another area.” According to EPA’s recently issued Clean Air Interstate Rule, 25 eastern states “significantly contribute to 8-hour ozone nonattainment downwind.” (page 133).

EPA’s 8-hour ozone standard makes section 1443 outdated and unnecessary.

- All eastern areas have been re-categorized as marginal or moderate, the Clean Air Act categories which require less significant actions to reduce air pollution. In addition, all areas have had their deadlines extended to either 2007 or 2010. The cities that testified in 2003 that they needed the attainment deadline extension (Dallas, Beaumont, and Atlanta) have been bumped down and given extensions.

Section 1443 undermines the benefits of EPA’s new Clean Air Interstate Rule (CAIR)

- EPA predicts that CAIR will bring all but 14 areas into attainment with the 8-hour ozone standard by 2015, but CAIR is built to work in tandem with local actions. If deadlines are extended as proposed, many more areas will fail to attain clean air than EPA currently predicts.